

ROBERT S. ARNS (#65071, rsa@arnslaw.com)
JONATHAN E. DAVIS (#191346, jed@arnslaw.com)
STEVEN R. WEINMANN (#190956, srw@arnslaw.com)

THE ARNS LAW FIRM
515 Folsom Street, 3rd Floor
San Francisco, CA 94105
Tel: (415) 495-7800
Fax: (415) 495-7888

JONATHAN M. JAFFE (# 267012, jmj@jaffe-law.com)
JONATHAN JAFFE LAW
3055 Hillegass Avenue
Berkeley, CA 94705
Tel: (510) 725-4293
Fax: (510) 868-3393

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANGEL FRALEY; PAUL WANG; SUSAN
MAINZER; JAMES H. DUVAL, a minor,
by and through JAMES DUVAL, as
Guardian ad Litem; and W. T., a minor, by
and through RUSSELL TAIT, as Guardian
ad Litem; individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC., a corporation; and
DOES 1-100,

Defendants.

Case No. CV 11-01726 RS

**DECLARATION OF STEVEN R.
WEINMANN IN SUPPORT OF
MOTION FOR FINAL APPROVAL
OF CLASS ACTION
SETTLEMENT AND MOTION
FOR FEES AND SERVICE
AWARDS**

Date: June 28, 2013

Time: 10:30 a.m.

Courtroom: 3

Judge: Hon. Richard Seeborg

Trial Date: None set

1 I, Steven R. Weinmann, hereby state and declare:

2 1. I am an attorney licensed to practice before all the federal and state courts located in
3 the State of California and I am admitted to practice before this Court. I am Of
4 Counsel to The Arns Law Firm, one of the attorneys for Plaintiffs herein. I have
5 personal knowledge of the facts stated in this declaration, and if called upon to
6 testify, could and would competently testify thereto. I make this Declaration in
7 support of Plaintiffs' Motion for Final Approval of Class Action Settlement and
8 Plaintiffs' Motion for Attorneys' Fees and Service Awards and in response to the
9 objections filed to those motions.

10 2. Attached here as Exhibit 1 is a true and correct copy of excerpts from the deposition
11 transcript of Class Representative Susan Mainzer, nee Von Seggeren.

12 3. Attached here as Exhibit 2 is a true and correct copy of excerpts from the deposition
13 transcript of minor sub-class Class Representative W.T.

14 4. Attached here as Exhibit 3 is a true and correct copy of excerpts from the deposition
15 transcript of minor sub-class Class Representative James Duval.

16 5. Attached here as Exhibit 4 is a true and correct copy of an Order Denying Motion for
17 Fees in *Robyn Cohen v. Facebook, Inc.*, No. C 10-5282 RS, Northern District of
18 California, entered 4/10/2012. Facebook sought attorneys' fees and costs in the
19 amount of \$706,950.31.

20 6. Attached here as Exhibit 5 are true and correct copy of excerpted pages from
21 Defendant Facebook, Inc.'s Memorandum of Points and Authorities in Support of
22 Motion for Attorney's Fees in *David A. Cohen v. Facebook, Inc.*, No. BC 444482,
23

Superior Court of California, dated December 13, 2011. Facebook sought attorneys' fees and costs in the amount of \$790, 523.68. The fees were denied in a later Order dated February 9, 2013.

7. Attached hereto as Exhibit 6 is a true and correct copy of the tentative ruling in *David A. Cohen v. Facebook, Inc.*, No. BC 444482, wherein the Court granted the demurrer on the grounds of preemption under the Children's Online Privacy Protection Act, or COPPA, 15 U.S.C. § 6502 as to claims for minors aged 13 to 17 years. An Order reflecting the dismissal is noted on the docket of the Superior Court of California, Los Angeles on 9/30/2011. The docket further reflects that the case was dismissed without prejudice on 11/23/2011. Attached hereto as Exhibit 7 is a true and correct copy of the online docket in *David A. Cohen v. Facebook, Inc.*, No. BC 444482.

8. Attached here as Exhibit 8 is a true and correct copy of the Statement of Rights and Responsibilities ("SRR") for May 24, 2007—December 21, 2009, Dep. Exhibit 66.

9. Attached here as Exhibit 9 is a true and correct copy of "Terms of Use"; SRR for December 21, 2009—April 22, 2010, Dep. Exhibit 78.

10. Attached here as Exhibit 10 is a true and correct copy of the SRR for April 22, 2010—August 25, 2010, Dep. Exhibit 81.

11. Attached here as Exhibit 11 is a true and correct copy of the SRR for August 25, 2010—October 4, 2010, Dep. Exhibit 82.

12. Attached here as Exhibit 12 is a true and correct copy of the SRR for October 4, 2010—April 26, 2011, Dep. Exhibit 83.

13. Attached here as Exhibit 13 is a true and correct copy of the SRR for April 26, 2011—August 25, 2011, Dep. Ex 151.

14. Below is a “redline” of the changes from the October 4, 2010 version of Facebook’s Statement of Rights and Responsibilities (“SRRs”), which was the version in place when Sponsored Stories were launched):

About Advertisements and Other Commercial Content Served or Enhanced by Facebook

Our goal is to deliver ads and commercial content that are ~~not only~~ valuable to our users and advertisers, ~~but also valuable to you~~. In order to help us do that, you agree to the following:

You can use your privacy settings to limit how your name and profile picture may be associated with commercial, sponsored, or related content (such as a brand you like) served or enhanced by us. You give us permission to use your name and profile picture in connection with that content, subject to the limits you place.

We do not give your content or information to advertisers without your consent.

You understand that we may not always identify paid services and communications as such.

15. Below is the April, 2012 version redlined against the version which will go into effect if the Amended Settlement Agreement (“ASA”) is approved, pursuant to § 2.1(a). Additions are underlined. Deletions are stricken through:

About Advertisements and Other Commercial Content Served or Enhanced by Facebook

Our goal is to deliver ads advertising and other commercial or sponsored content, such as Facebook Ads and Sponsored Stories, that ~~are~~ is valuable to our users and advertisers. In order to help us do that, you agree to the following:

~~You can use your privacy settings~~ give us permission to limit how use your name ~~and, profile picture may be associated,~~ content, and information in connection with commercial, sponsored, or related content (such as a brand you

like) served or enhanced by us. ~~You give~~ This means, for example, that you permit a business or other entity to pay us permission to use display your name and/or profile picture in connection with that with your content or information. If you have selected a specific audience for your content or information, we will respect your choice when we use it subject to the limits you place.

~~We do not give your content or information to advertisers without your consent. If you are under the age of eighteen (18), or under any other applicable age of majority, you represent that at least one of your parents or legal guardians has also agreed to the terms of this section (and the use of your name, profile picture, content, and information) on your behalf.~~

~~You understand that we may not always identify paid services and communications as such.~~

16. If the Settlement is approved, and Facebook will be prohibited under a Court-ordered injunction from changing this portion of the SRRs for at least two years.

17. Attached as Exhibit 14 hereto is a true and correct copy of deposition Exhibit 684, Facebook's "Guide to the New Facebook Ads Manager," which claims "Ads shown with the names of people's friends are twice as effective as those without..."

18. Attached as Exhibit 15 hereto is a true and correct copy of deposition Exhibit 240, "Advertising Effectiveness: Understanding the Value of a Social Media Impression.

19. On information and belief based on communications from Facebook's counsel Benjamin Kleine, Facebook timely delivered 146,617,076 e-mails to Facebook users / Class Members including the Court-ordered e-mail Notice of this action.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that if called upon to testify, I could verify the

1 accuracy of the same. This document was executed on June 7, 2013 in San Francisco,
2 California.

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